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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
GERALD LONGMIRE,  
  
Defendant.

Case No. 2:19-cr-00112-APG-GWF

**ORDER DENYING MOTION TO  
REVIEW DETENTION ORDER**

[ECF No. 13]

On May 24, 2019, defendant Gerald Longmire requested I review Magistrate Judge Foley's detention order and release him on home confinement or to the halfway house pending trial. ECF No. 13. The Government filed a 44-word response stating it "has no opposition to a hearing" and "would reserve the right to oppose release."<sup>1</sup> ECF No. 14. Notwithstanding the Government's failure to oppose Mr. Longmire's request, I am required to conduct a de novo review and make an independent determination about detention or release.

A defendant ordered detained by a magistrate judge may file a motion for revocation or amendment of the order. 18 U.S.C. § 3145(b). The district judge reviews a magistrate judge's detention order de novo. *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990). "The district court is not required to start over in every case, and proceed as if the magistrate's decision and findings did not exist." *Id.* at 1193. Instead, "[i]t should review the evidence before the magistrate [judge] and make its own independent determination whether the magistrate [judge]'s findings are correct, with no deference." *Id.*

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<sup>1</sup> The Government's response is not helpful to my decision-making. Reserving the right to oppose something does not mean opposing something. Future filings like this may be deemed a non-opposition or a consent to the defendant's request. But for my obligation to make an independent determination on the defendant's request, I would be tempted to grant Mr. Longmire's request as unopposed.

1 I have conducted an independent, de novo review of Judge Foley's decision. I have  
2 reviewed Judge Foley's Order of Detention Pending Trial and the parties' respective briefs, and I  
3 listened to the tape of the detention hearing. Judge Foley's findings and conclusions, as stated  
4 during the hearing and in the detention order, are correct. Moreover, Mr. Longmire has not  
5 presented any new information that was not known to him at the time of the detention hearing, let  
6 alone new information that has a material bearing on the issue of whether there are conditions of  
7 release that will reasonably assure his appearance and the safety of the community. 18 U.S.C.  
8 § 3142(f). Thus, there is no basis to modify or amend the detention order.

9 Accordingly, IT IS HEREBY ORDERED that the defendant's Motion to Review Detention  
10 Order **(ECF No. 13)** is **DENIED**.

11 Dated: June 12, 2019.

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15 ANDREW P. GORDON  
16 UNITED STATES DISTRICT JUDGE  
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